[A.S. 57.]

Previous Reference
Legis 57-11

File No. 27 of 1913
Serial Nos. 1—5

1913-14

GENERAL AND REVENUE SECRETARIAT.

(Legislation)

Amendment of Civil Procedure Code, 1911. by the addition of Section 54 A.

Part A: Manuscript
for February 1915

Serial Nos. 1-5

To The Hon'ble the Resident in Mysore
Do. 1013 D 15-11-13

Forwards a copy of the Bill to amend the Code of Civil Procedure 1911. with a Statement of Objects & Reasons

From J. A. Resident no 7393 D 28-11-13

Informs that there is no prima facie objection to the Bill being laid before the Legis. Council

To The J. A. Residency Pol 139 D 15-12-13

GPB—5,000—20-3-06.

Forwards 2 copies of the Bill as finally approved by the Legis: Council

From the F.A Resident

No 6395 D. 7-9-14

Intimates the sanction of the Govt: of India for the Bill being passed into Law

To The Councilor

No 2640 Dg. 2-15-

Orders the publication of the Bill as Regn: I of 1915-

File No. 27 of 1917

Government of His Highness the Maharaja of Mysore

Proceedings of the General and Revenue Secretariat

February 1915

Judicial and Legislative (Legislation)

A" Collection Serial Nos.1-5

Amendment of the Code of Civil Procedure,1911 by addition of Section 54A.

Table of contents.

Serial No. of File	Number and date of letter and contents	Page in Proceedings
	D.O. No. 1013 dated 15-11-1913 to the Hon'ble the Resident in Mysore Forwards a copy of the Bill to amend the Code of Civil Proceddrn, 1911, with the statement of objects and reasons and states that the Bill will be placed before the Legislative Council.	
2	D.O. No. 4393 dated 28-11-1913 from the First Assistant to the Resident in Mysore. States that there is no prima facie objection to the Bill being laid before the Legislative Council.	
3	Letter No. Pol 133 dated 15-8-1914 to the First Assistant to the Resident in mysore Forwards two copies of the Bill as finally approved by the Legislative Council and requests that the sanction of the Government of India for the Bill being ~~placed~~ passed into law, may be obtained.	
4	Letter No. 6395 dated 7-9-1914 from the First Assistant to the Hon'ble the Resident in Mysore Intimates the sanction of the Govt. of India for the Bill being passed into law.	

G.R.S. 11]

1913-14

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

Previous reference
S. 5-7-11

File No. 27-13

FILE HEADING.

Amendment of the Civil Procedure code, 1911, by the addition of sec: 5-4 A

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

3

NOTES AND ORDERS.

1. Please note on the point of taxation of property in Municipalities Hitherto as pointed out by S.P. Raja Ratnavelu Chairman 28/8/12

2. Submitted

3. At the discussion on the Bill at the Legis. Co. meeting of 1/6/1912

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

his 126

F. R. S. 12]

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.

Mr M. C. Rangiengar said that the discretion to direct a sale of property in a suit for partition should vest in the court itself instead of giving the court the power only in cases where a request to do so is made by any of the shareholders interested individually or collectively to the extent of one moiety or upwards.

3. In 1909 at the Representative Assembly Mr M.C. Rangiengar and Mr Venkatakrishnaiya both spoke in favour of empowering the President of a Municipality either to effect a partition as decreed if the partition does not contravene any building bye-laws or to assign the property itself to one and cause compensations in money to be paid to the other or others of the parties entitled to shares under the decree.

4. Mr Rangiengar's present proposal is based on these lines.

G.V.S. (58) 23/9/12

Kind ref[illegible] is invited

NOTE—Contn. sheet.

GPB—65,000—17-8-12.

Flag S.

Supplement to the Mysore Gazette dt 13-6-12

to Mr Ranga Iyengar's Speech and the reply of the Dewan thereto at the meeting of the Legislative Council held on the 8th June 1912. Mr R. Iyengar then Catalogued various matters which required Consideration at the hands of Govt and the Dewan said in reply that no Regulation required overhauling more than the Municipal Regn and that the task would be taken up in due Course. This explains perhaps why Mr R. has sent in quite a large number of amendments.

6. I have put up the draft of a Section to be inserted in the Municipal Regn as Sec 160 A It requires the Civil Courts passing decrees for partition of buildings Situated within a Municipality to transfer them to the President of the Municipality for Effecting the partition in accordance with the laws for the time being in force

X. that is, at the end of the chapter on Municipal powers. There seems to be no more suitable place. 20/2 LD

J. R. S. 12]

General and Revenue Secretariat.

of this 176-11

Legis File No. 27 of 191 3-14

Serial No.

for the Execution of such decrees. This last qualifying Expression brings into Conflict the Partition Bill (about-to-become Law) which Confers Certain very necessary powers on Courts in Cases where ~~to~~ for owing to Special reasons an actual division of the property among the Shares would be undesirable. In such Cases on the request of ~~Co~~ Some of the Shares the Court Can order a Sale of the property and distribution of the proceeds

¶ Mr Ranga Iyengar was of opinion that the effecting the partition Should have this power even tho' the parties or the Shares do not ask for a Sale. ~~The draft accordingly Enables the Ct~~

This Explains ~~Subsection~~ Subclause (2) of the draft.

§ 24 The other Subclauses are

NOTE—Contn. sheet.

(C. R. S. 12]

General and Revenue Secretariat.

Legis 176-11

Legis File No. 27 of 191 3-14

Serial No.

Consequential on the main change in Sub-clauses (1) & (2). The provisions regarding appeals seem to be necessary cf. Cl. 8 of the Partition Bill. Sub-clause 3 is modelled on Sec 71 of the C.P.C.

9th. The provisions of the Section are to come into operation only in those Municipalities to which they have been declared applicable by the Govt. Great inconvenience is reported from ~~was felt in the~~ city some city where Civil Court decrees are held to be executed sometimes in defiance of the Sanitary bye-laws. Hence the need for a change in the law.

10th If the draft is prima facie acceptable the opinion of the Ch. Ct. may perhaps also be taken thereon.

S. Hiriyanna.

I think I noted Mr Rau's on these proposals as a whole once?

4/9/12

Sec'y

11th 1st Counsel

K. R. Srinivasa Ayya

15/10

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Judis 176

1911-12 Serial No.

12th There is no objection to this being taken up separately. The draft is all right. Put up a short statt of objects & reasons

13th The other matters mentioned in Mr. Rangaiengar's memo. may be examined in the Munc Deptt and such amendments as may be approved got through in due course.

H.V. Narasimhaiya

15/3/13

Legis 17/3/13

14th 17/3/13 Draw 17/3 SPR 17/3

15th Submitted with a draft of the Statement of Objects and Reasons.

S.V.S. 19/4/13 S.V. 21/4/13

16th Typed draft of Statement of Objects & Reasons, as revised by me

S. P. Rajagopalachariar 16/5

Rev 17/5

Legis draft 17/5/13

17th Subd. with a typed draft.

S.V.S. 20/5/13

18th Submitted with

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.	
	a Statement of Objects & Reasons as desired in para ~~33~~ 12 S.P. Rajagopalachari 20/5
	dm Sec 4)
	1st Comm. after 19) Approved Please get the opinion of the Judges of the Chief Court before going further K.V. Rangaswamy Aiyangar ~~25~~ 24/5/13
	20 4. Draft letter to the Registrar S.P. Rajagopalachari 27/
	~~Submitted with a draft~~ (58) SA 30/5/13
	dm Sec 4) 30/5

NOTE--Contn. sheet.

P.T.O.

GPB—20,000—26-1-12

SUBJECT No. 16.

Amendment of Municipal Regulation.

Messrs. M. C. Rangiengar, M. Venkatakrishniah, Amble Anniah Pandit and Banumiah, Mysore City Municipality.

Summary of discussion.—It is prayed that the Municipal Regulation be amended as a whole.

Reply of Government.—Under consideration.

20a]
Subd.

Mr M.C. Rangiengar had been asked to forward his suggestions to amend the Municipal Regulation as a whole and he had sent a number of suggestions of which the empowering of the Municipal Presidents to ~~effe~~ execute decrees for partition was one. ~~A bill re~~ this subject was ordered to be taken on hand first. A bill was accordingly prepared and submitted which was ordered to be sent to the chief Court for opinion. The whole file has therefore been unofficially ~~submitted~~ forwarded to the chief Court where the file now is. May this be placed in that file.

4/6
SM 18/6

(5&) SW
9/6/13

4/6/13

G. R. S. 12]

General and Revenue Secretariat.

Legis. File No. 27 of 1913-14

Serial No. 21

Forwarded unofficially to the Registrar, Chief Court of Mysore for favour of obtaining the opinion of the Judges of the chief court on the draft Bill.

By order

For Secretary to Govt.
General and Revenue Depts.

OPINION OF THE CHIEF COURT.

The Chief Judge :-

I consider that it is very desirable to have legislation of the kind proposed. Difficulties similar to these felt in Mysore were experienced in the C and M Station of Bangalore when I was District Judge there, and it was then arranged that the President of the Municipality should be appointed Commissioner (under section 396 of the old Civil Procedure Code) for effecting a partition of all houses and buildings situated within the Municipal limits. The arrangement worked fairly well so long as I was there and continues to work satisfactorily even now, I understand. But the legislation proposed by us appears to me to be a far more satisfactory method of meeting the difficulties felt there as well as in other places. But

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Serial No.

a legislation of this kind should, in my opinion, find a place in the Civil Procedure Code, and I would suggest that it be introduced as section 54 A of that Code.

23 I approve of Sub Clause (2) which gives power to the Municipal President to sell the property to be divided even where the sharers or any of them have not asked for a sale of it.

24 I also approve of Sub Clause 3; but I would suggest that the words "and his subordinates" be omitted. Those words were put in in section 71 of the Civil Procedure Code because provision had been made in section 70 for conferring powers upon subordinate revenue officers of a certain rank. In Sub Clause 1 of the proposed Regulation, no provision has been made for partition being effected by any subordinate of the Municipal President.

25 Sub Clause (4) is, in my opinion, an improvement upon clause (c) of section 70 of the Civil Procedure Code.

Mr. Justice K.S. Chandrasekhara Aiyar :-

26 I am of opinion that the proper place for a clause relating to the execution of decrees of Civil Courts is the Code of Civil Procedure, and not a special enactment like the Municipal

NOTE—Contn. sheet.

SPB—65,000—17-6-12.

C R. S. 12] ~~J his 176/12~~
General and Revenue Secretariat.
Legis File No. 27 of 1913-14

Serial No.

Municipal Regulation.

27 ~~28~~. As regards the contents of the Bill, it seems to me that it seeks to draw upon two different sets of provisions contained in the Civil Procedure Code, namely section 54 and sections 68 to 71, without apparently realising the difference in their scope and application.

28 ~~29~~ Section 54 alone relates to partition decrees, and it has reference, not to their execution in entirety, but only to that part of it which is concerned with the actual division of the estate into shares. It does not, moreover, deprive the executing Court of its judicial power to hear and decide objections to the division effected by the Deputy Commissioner. (See I.L.R., 19 Mad. 435).

29. ~~30~~ The other set of provisions (sections 68 to 71) has no application to <u>partition</u> decrees so @@@ called. It relates, on the contrary, to decrees directing the <u>sale</u> of immoveable property; it vests in the revenue authorities the entire responsibility for execution proceedings from the time that any such decree is transmitted to them till its retransmission duly executed to the Court of origin; and it prohibits interference both on the part of such Court and of the Courts of appellate and revisional jurisdiction. This distinction will explain, incidentally, why it is that in regard to this class of cases there is a provision (see section 71) declaring that the Deputy Commissioner and his subordi@@@ nates shall be deemed to be acting judicially, such as

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

as has not been considered necessary in the case of revenue officers who have to deal with partition decrees : in the former cases, the authorities concerned actually and wholly execute the decree transferred, while in the latter case they merely carry out a single operation incidental to a partition subject to the interference of the executing Court.

30/ I would therefore suggest that we adhere as closely as possible (mutatis mutandis) to the wording of section 54 of the Code, and that references to "execution of decrees" be avoided when alluding to the functions of the Municipal President.

I have no objection to the insertion of a provision similar to Sub-Clause (2) of the draft (subject to the wording being made unobjectionable)

Sub clause (3), for reasons already explained is inappropriate; while sub-clause (4) is unnecessary.

----:::0:::----

Mr. Justice T. Paramasiva Iyer :-

31/ Seen. I have no time to study this question as it should be.

Returned with my opinions of the judges.

27-6-1913

14

R. S. 12] 1 his 176

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.

32 Submitted, ~~with the opinion~~

S.V.S (58)
30/6/13

[Please put up the refce quoted by Mr Justice Chandrasekhara Iyer. (19 Madras etc)

S.P. Rajagopalachariar 15/7
Subd. with I.L.R. Mad. and the civil P.C. old and present.]

S.V.S (58)
16/7/13

33 Both the Chief Judge & Mr Justice Chandrasekhara Iyer are of opinion that the proposed provision should find a place only in the Civil Procedure Code & not in the Jud. Regn. The Chief Judge generally approves the proposed legislation, suggesting only one ~~change~~ minor change, (viz.) the omission of the words 'or his Subordinates' in Sub Clause 3

34 ~~Sd~~. Mr Justice Chandrasekhara Iyer suggests that Sec. 54 of the Code may be adhered to as closely as possible

Dr Secy

S.P. Rajagopalachariar 28/7

35 ~~Sd~~. With reference to para 40. 1st Consultation

Dy Secy 29/7

36 See Notes on the draft.

37 Please make suitable alteration

GPB—65,000—17-6-12.

NOTE—Contn. sheet.

Revis 176-11

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.

Turns & Circulate.

H. V. Ranganadhan

4/8/13

38

Bring up

S. P. Rajagopala Ayyar

Submitted with the draft Bill suitably altered as personally ordered.

S. V. S

12/8/13

39

Seen. Circulate please

H. V. Ranganadhan

12/8/13

40

H. R. Srinivasa Ayyar

2nd G.

Seen

41

Well?

1418

Dewan

1657

18-8-13

16

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

157

Legis 27 of 1913-14

Submitted to His Highness.

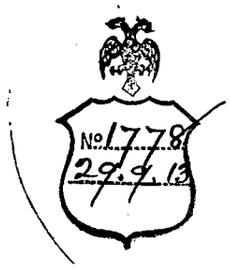
I solicit His Highness's sanction to the introduction into the Legislative Council of the accompanying Bill further to amend the Code of Civil Procedure, empowering the Presidents of Municipalities to execute Civil Court decrees for the partition of a building situate within their respective Municipalities. The necessity for the Bill is explained in the statement of objects and reasons.

2. The Hon'ble the Resident will, as usual, be informed before the introduction of the Bill into the Legislative Council.

M. Krishnaraja
29th Sept 1913.

Legis 27 of 1913-14

Record of Cases submitted for the Orders of His Highness the Maharaja



Subject.

Introduction of a Bill further to amend the Code of Civil Procedure, 1911.

Order.

Sanctioned

KRM 9.

31/10/13

4.10.13

8/10

Draft to Resident

SPR 9/10

S.P. Rajagopalan Chief

18

R. S. 12] Legis 176-11

General and Revenue Secretariat.

Legis File No. 29 of 1913-14

Serial No.	
45	Subd with a draft D.O. to the Resident (48) S.V.S. 20/11/13
46	Dr Scott 46 S.P. Rayappa 20/10
47	A typed draft as revised may be put up Dewan 4/11 SPR
48	D.M. Narasimhaiya
49	Subd. with a typed draft (48) S.V.S. 4/11/13
50	Dr Scott 50 S.P. Rayappa SPR 4/11
51	The draft d.o. to the Hon'ble the Resident may be approved Dewan Scott 5/11 SPR
52	Dewan 61484 (18.11.13)
53	Draft approved by Dewan. Signed fair Cpy is also placed on the file. S. Hiriyanniah 16/11/13. Dewan 18/11 SPR 18/11
54	Issue S.P. Rayappa.
55	No D.O. 1013 dated 15/11/13 to the Hon'ble the Resident in Mysore Forwards a copy of the Bill to amend the code of civil Procedure, 1911, with a statement of objects and reasons and informs that the Bill will, in the usual course, be placed before the Mysore Legis. Council

NOTE—Contn. sheet.

GPE—65,000—17-6-12.

1650

General and Revenue Secretariat. | Legis File No. 27 of 1913-14

Serial No.

24 No 7393 dated 28/11/13
from the F. A. Resident-
Informs that there is no prima-
facie objection to the Bill being laid
before the Legis council.
55 Submitted
Leave to introduce the Bill will
have to be moved for at the next
Legis. council meeting
(48) S.V.S
2/12/13

56 This will be done if
approved.
(1st Cr) S. P. Rajagopalan
S/Off
2/12
57 Appd
14/12/13 N. V. Narasimhaiya
15/12

58

59 Subd.
The member of Govt who has
in council
to introduce this Bill has to be
settled. 20
(48) S.V.S
20/1/14 57 ✓ approved, the motion will be
put down in the name of the 1st Cr
(1st Cr) 60 S. P. Rajagopalan
S/Off
22/
N. V. Narasimhaiya

NOTE—Contn. sheet.

GPE—65,000—17-6-12.

Included
23/1/14.

23/1 23/1/14 61 Include in Appd 23/1

16513

[G. R. S. 12]

General and Revenue Secretariat.

Legs File No. 27 of 1913-14

Serial No.

61

Subd. Leave to introduce the Bill was granted by the Legis. Cl at their meeting held on 3rd Feb 1914 The Bill was read at the meeting of 14/4/14 and was referred to a Select Committee. The Select Committees Report was ~~adopted~~ considered by the Legis Council on 29/6/14 and adopted with slight amendment viz the substitution of the word "Municipal Council" for the word Municipality occurring in the expression "President of the Municipality" in sub-clauses (1) and (3) of the Bill. The Sanction of the Govt of India for the Bill being passed into law has to be obtained submitted with a draft letter to the Residency.

(GP) S.V.S
29/7/14 N.N

N. Narthamalai Rao. 30/7

63 Secy
The draft to the Residency may be approved
Duncan 7/8

First member
Draft appd. by First member
7.8.14
Duncan 8/8

64 Secy
SS 8/8

NOTE—Contn. sheet.

GPE—65,000—17-6-12.

[G. R. S. 12] ✓ 1653-17 ✓ 8524

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.	
3	No Pol. 133 dated 15th Aug. 1914 to the P.A. Resident in Mysore Forwards 2 copies of the Bill as finally ~~passed and~~ approved by the Legis. Cl. and requests that the sanction of the Govt of India for the Bill being passed into law be obtained.
4	No 6395 dated 7th Sept. 1914 from the P.A. Resident ~~Forwards~~ Intimates the sanction of the Govt of India for the Bill being passed into law subject to the authority vested in them under Art 18 of the Treaty of 1913
6)	Submitted
(5)	The Bill will be ~~placed for~~ included in the agenda for the next meeting for ~~it~~ being passed into law.
	(48) S.V.S 16/9/14
	18/9 G. Srinivasaiyan
6)	Submitted. The Bill was finally passed ~~into law~~ by the Mysore Legislative Council at meeting dated 21st Nov. 1914. The sanction of H.H. is necessary before

NOTE—Contn. sheet.

Serial No.

it can become law. A copy of the Bill as finally passed is put up with the usual endorsement for the signature of the Dewan after obtaining His Highness' assent to the Bill being passed into law.

(48) S.V.S
18/12/14

67) Sub' final note

G. Srinivasa Iyer 19.12.14

(Vice-President)

You may draft a short note yourself in such cases.

(The bill to amend the Code of C.P. by the insertion of a provn to enable the Presidents of Municipalities to execute decrees for partn of buildings within Mal limits, has passed through the Legal in due course. Its scope and purpose are fully explained in the Stt of Objects & Reasons & in the final draft as passed. The gracious sanction of His Highness is required to promulgate it as law.)

21/12/14 21/12

93

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat.

Legis File No. 27 of 1913-14

Serial No.

Subv. with a draft final note

Typed fair copy put up

(48).

28/12/14 Submit to 1st Member for signature

Please get it typed when signed

28/12/14

Final note by the First member is put up.

MSS

Dewan)

3654

4-1-15

Dewan 3/1

Legis 4/1

NOTE—Contn. sheet.

GPB—25,000—2-11-14

Final Note by the First Member of Council~~lor~~.

Subject

Amendment of Civil Procedure Code, 1911,

by adding Section 54 A.

68) The Bill to amend the code of Civil Procedure, 1911, by the insertion of a provision to enable the Presidents of Municipalities to execute decrees for partition of buildings within Municipal limits, has passed through the Legislative Council in due course. Its scope and purpose are fully explained in the Statement of objects and -- reasons and in the Bill as finally passed. The gracious sanction of His Highness is required to promulgate it as law.

H. Manjunadayya

31/12/44

Submitted to His Highness.

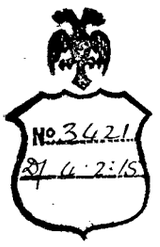
Flag H)
Flag H

69 I submit herewith a Final Note by the First Member of Council regarding the Bill to amend the Code of Civil Procedure for enabling the Presidents of Municipalities to execute decrees for partition of buildings within Municipal limits.

70) 2. I solicit His Highness's sanction to the passing of the Bill into law.

M. Visvanatha
2nd Feb 1915.

Record of Cases submitted for the Orders of His Highness the Maharaja



Subject.

Bill to amend the Code of Civil Procedure for enabling the Presidents of Municipalities to execute decrees for partition of buildings within Municipal limits.

(694

71

Order.

~~KRW~~

5/2/15

Secretary

6.2.15

Dec 6/2

9

9

R. S. 12]

General and Revenue Secretariat. | Legis File No. 27 of 1913-14

Serial No.

7 ✓
Subd. with a draft ~~notification~~ order publishing the Regn as Regn I of 1915-
(35) S.V.S
8/2/15 NN

73) Issued
8/2/15

5 | Lr No J 2640 dated 9/2/15 G. Srinivasa Murthy
to the Compiler, Mysore Gazette
Orders the publication of the Bill as Regn I of 1915.
Subd. 8 spare copies of the Regn have been received from the Press.
Draft forwarding 11 copies of the ~~Gaz~~ Regn to the Residency as usual is put up
(38)
10/2/15 NN

1 ✓ 20 ✓

Issued
10/2/15

28

NOTE—Contn. sheet.

MPB—25,000—2-11-14

Legis 27-13-1

Bangalore
Dated 15th Nov 13.

D.O.No. 1013/Ex 2 from the Dewan, Mys.

My dear sir,

I enclose herewith a copy of a Bill to amend the Code of Civil Procedure, 1911.

The copy of the statement of objects and reasons that accompanies the Bill explains the object and scope of the proposed amendments. The Bill will, in the usual course, be placed before the Mysore Legislative Council.

I have the honour to be
Sir
Yours sincerely,
Your most obedient Servant

15.11.13.

Dewan

SPL
4/11
5/11

To

Colonel Sir Hugh Daly, K.C.I.E., C.S.I.,
Resident in Mysore, Bangalore.

B.V.N.

29

Draft — 28

Encl: to Sl 1

A Bill further to amend the Code of civil Procedure, 1911.

Whereas it is expedient further to amend the Code of civil Procedure, 1911; His Highness the Maharaja is pleased to enact as follows:-

Addition of a new sec: as sec: 5-4A.

The following new section shall be added after sec: 5-4 of the Rep. as sec: 5-4A

"5-4A. (1) Where a civil Court passes a decree for the partition of a building situate within the limits of a Municipality to which the provisions of this section have been declared by Government by a notification in the Official Gazette to apply

30

[illegible]

[illegible]
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[illegible]

the partition shall be made by the President of the Municipality in accordance with the law for the time being in force for the execution of such decrees.

(2) It shall be competent for the President executing such decrees to exercise the powers conferred by sections 2 and 3 of the Partition Regulation, 1913, notwithstanding that the sharers or any of them have not asked for a sale of the property.

(3) In executing a decree under this section the President of the Municipality shall be deemed to be acting judicially

(4) An appeal shall lie from the orders passed by the President in those cases in which an appeal would have been allowed if the orders had been passed

(c) [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

13. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

(2) [illegible]
[illegible]
[illegible]
[illegible]

(1) [illegible]
[illegible]

by the court which
passed the decree
to the court to
which appeals ordinarily
lie from that court -

Statement of objects and Reasons.

Encl : to

It has been urged in the Mysore Representative Assembly that decrees passed by Civil Courts for the partition of houses or building sites within the Municipal limits should be transferred to the President of the Municipal Council for execution and that he may be given power either to effect a partition as decreed, if such partition does not contravene any building bye-laws, or to assign the property itself to one and cause compensation in money to be paid to the other or others of the parties entitled to shares under the decree. The reason assigned for this suggestion is that minute sub-division of houses and other property within Municipal limits will lead to insanitary conditions of living. The difficulty pointed out in the Assembly will, to a certain extent, be met by the Partition Regulation (1913) which empowers the Civil Courts to order [illegible] instead of

33

of a partition of the property, in certain cases. This can, however, be done only on the request of any of the share-holders interested individually or collectively to the extent of one moiety or upwards. In the absence of any such request on the part of share-holders the Court can only direct the partition of the property.

It is considered desirable that the President of the Municipal Council should be empowered to execute decrees for the partition of buildings situated within the limits of the Municipality and to order sale of the property, should he think it necessary, notwithstanding that the sharers or any of them have not asked for it.

These provisions will have effect only in those Municipalities to which they have been declared to apply by Government.

20/5

B.V.N.

Legis 27-13-2

Note 28.11.13 Re Legis 27-13-24 P&R No 8823 28.11.1913

D. O. No. 7866

THE MYSORE RESIDENCY,

D.O. No. 7393 dated 28/11/13 Bangalore, 28th November 1913.

My dear Dewan Sahib,

Bill

I am desired to acknowledge the receipt of your Demi-official letter No. 1013, dated the 15th November 1913 and to state that there is no prima facie objection to the Bill being laid before the Legislative Council.

Legis 29/11

Yours Sincerely

M. Visvesvaraya, Esq., C.I.E.,
Dewan of Mysore,
Bangalore.

35

G. R. S. 26] 10/8

Legis File No. 27
Serial No. 13

165 dle

Diary No. of letter replied to

General and Revenue Secretariat
( )
, *the* 191 .

Date of issue 15. 8. 1920

Signed by Hon. D. M. Narasinga Rao

Legis No Pol No. 133/en 2
dated 15-8-1920 from
To The J. A. Resident
in Mysore, Bangalore

Sir

I am directed to forward herewith two copies of the Bill further to amend the Code of Civil Procedure, 1911, as finally adopted by the Legislative council and to state as follows:-

It was being urged in the Mysore Representative

over.

SUBJECT.

36

Assembly that decrees
passed by Civil Courts for
the partition of houses or
building sites within the
Municipal limits should be
transferred to the President
of the Municipal Council
for execution and that he should
~~may~~ be given power either
to effect a partition as
decreed, if such partition does
~~does~~ not contravene any
building bye-laws or to
assign the property itself
to one and cause compensation
in money to be paid to the
other or others of the parties
entitled to shares under
the decree. The reason
assigned for this suggestion
was that minute sub-division
of ~~houses and other~~ the property
within Municipal limits would
~~will~~ lead to insanitary
~~to be extremely sale~~

List of enclosures.

Not attested

Copied by

Examined by

GPB—25,000—8-8-11.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

conditions of living, the difficulty pointed out in the Assembly ~~will~~ is, to a certain extent, be met by the Partition Regulation, III of 1913, which empowers the Civil Courts to order sale instead of a partition of the property in certain cases. This can, however, be done only at the request of ~~any of~~ the share holders interested individually or collectively to the extent of one moiety or upwards. In the absence of any such request ~~on the part of the share-holders~~, the court can only direct the partition of the property.

It was therefore considered desirable that the President of the Municipal Council ~~Town~~ should be empowered

XX

37

X to execute decrees for the partition of buildings situate within the limits of the Municipality and to order sale of the property, should he think it necessary, notwithstanding that ~~the shares of or any of them have not~~ none of the shares had asked for it, and this Bill was accordingly framed.

It is intended that the provisions of this Bill shall have effect only in those Municipalities to which they may be declared ~~to apply~~ by Govt to apply.

I am ~~now~~ to request ~~you to be good as to~~ that the sanction of the Govt of India may be obtained for the Bill being passed into law.

I have &c

7/8/14

GPB—15,000—13-11-11

NRC
30.7.14

Offg Secretary to Govt

7/8

MW

GR

Encl: 1

A Bill further to amend the Code of Civil Procedure, 1911.

as adopted by the Legislative council on 29/6/12,

~~(As amended by the Select Committee.)~~

Whereas it is expedient further to amend the Code of Civil Procedure, 1911; Highness the Maharaja is pleased to enact as follows :—

Addition of a new section as Section 54 A.

The following new section shall be added after Section 54 of the Regulation as Section 54 A :—

"54 A. (1) Where a Civil Court passes a decree for the partition of a building situate within the limits of a Municipality to which the provisions of this section have been declared by Government by a notification in the official Gazette to apply, the partition shall be made by the President of the ~~Municipality~~ in accordance with the law for the time being in force for the execution of such decrees.

Municipal council

(2) It shall be competent for the President executing such decrees to exercise the powers conferred on Courts by Sections 2 and 3 of the Partition Regulation, III of 1913, notwithstanding that the share-holders or any of them have not applied for a sale of the property.

Municipal council

(3) In executing a decree under this section the President of the ~~Municipality~~ shall be deemed to be acting judicially.

(4) Orders passed by the President under this Regulation shall be subject to appeal or revision in the same manner and to or by the same Court as similar orders made by the Court which passed the decree.

Pol No 475 & 7.9.1914.

39

Letter No. 6395 dated 4.9.20

que A9

FROM

P. B. WARBURTON, Esq., I. C. S.,
The FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Legis 9/9

DIARY No. J 854

To

The Dewan of Mysore.

1914 15
SECTION Legis
FILE 27-13
SER 4.

Dated Bangalore, 7th September 1914

SIR,

I am directed to acknowledge the receipt of Mr. Narasinga Rao's letter No. 133 Pol., dated the 15th August 1914, forwarding for the orders of the Government of India, a draft bill further to amend the Mysore Code of Civil Procedure, 1911 (III of 1911).

2. In reply, I am to say that the Governor General in Council has been pleased to accord his consent to the bill, on the understanding that he retains over it the power and authority which vest in him by virtue of Article 18 of the Treaty of 1913.

I have the honour to be,

Sir,

Your most obedient servant,

PBWarburton

First Assistant Resident.

3?

R. O. 2.—R. P. B.—7-1914.—1,000.

G.R.S. 28]

Legis File No. 27 - 13
Serial No. 5

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

READ—

, the 191 .

Date of issue 9. 2. 1915.

Signed by M. G. Srinivasa Iyer

ORDER ~~THEREON~~.—No. 2640 Leg. I
dated 9. 2. 1915. Ordered that the accompanying Regulation further to amend the code of civil Procedure, 1911, which received the assent of His Highness the Maha-

over.

SUBJECT.

GPB—50,000—1-12-12

raja on the 5th February 1915 be
for general information
published in Part III of the
a
Mysore Gazette ~~in English for~~
in English and Kannada

Es

(For Offg Secretary, ~~to Govt~~

2.

The Compiler Mysore Gazette
for publication and supply of 200
copies in English and 100 in
Kannada to this Office and 100
in English and 50 in Kannada
to the Curator, Govt Central
Book Depot, Bangalore

MK

M/25

102

G. R. S. 26] 182

Legis File No. 27-13
Serial No.

Diary No. of letter replied to 854

Pol No. 809
Encl

General and Revenue Secretariat
( )
, *the* *191*

To The F. A. Resident in Mysore, Bangalore

Date of issue 19-2-15

Signed by Mr Narasimhaiya
Asst

Sir,

I am directed to forward herewith 11 copies of Regulation I of 1915 (A Regulation further to amend the code of civil Procedure, 1911,) which received the assent of His Highness the Maharaja on the 5th February 1915, and to request you to be

over.

SUBJECT.

41

Pol
182

so good as to forward 2 copies
to the His Highness the
Nizam's Govt.

I have &c.

CS
18/7/13

for Secretary to Govt.

NK
GV

List of enclosures

Copied by

Examined by

GPB—25,000—4-3-13

REGULATION No. I OF 1915.

A Regulation further to amend the Code of Civil Procedure, 1911.

(Received the assent of His Highness the Maharaja on the 5th day of February 1915.)

Whereas it is expedient further to amend the Code of Civil Procedure, 1911; His Highness the Maharaja is pleased to enact as follows:—

Addition of a new section as Section 54 A.

The following new section shall be added after Section 54 of the Regulation as Section 54 A:—

"54 A. (1) Where a Civil Court passes a decree for the partition of a building situate within the limits of a Municipality to which the provisions of this section have been declared by Government by a notification in the official Gazette to apply, the partition shall be made by the President of the Municipal Council in accordance with the law for the time being in force for the execution of such decrees.

(2) It shall be competent for the President executing such decrees to exercise the powers conferred on Courts by Sections 2 and 3 of the Partition Regulation, III of 1913, notwithstanding that the share-holders or any of them have not applied for a sale of the property.

(3) In executing a decree under this section the President of the Municipal Council shall be deemed to be acting judicially.

(4) Orders passed by the President under this Regulation shall be subject to appeal or revision in the same manner and to or by the same Court as similar orders made by the Court which passed the decree."

M. VISVESVARAYA,
Dewan.